

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
(608) 266-2982



David J. Stute, Director
Legislative Council Staff
(608) 266-1304

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

CLEARINGHOUSE RULE 97-003

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

2. Form, Style and Placement in Administrative Code

a. In the analysis, the list of statutes authorizing the promulgation of the rule should include ss. 285.13 and 285.65, Stats., in order to be consistent with the statement in s. NR 463.01 (2).

b. The phrase “as affected by Clearinghouse Rules 95-102 and 96-087” in the treatment clause of SECTION 3 should be omitted. It is not possible for a newly created section to have been affected by another rule-making order.

c. Section NR 407.04 (6) refers to s. NR 463.02 (7) as the definition of “chromium anodizing facility,” while it is in fact the definition of “chromium anodizing.” Similarly, that section refers to s. NR 463.02 (10) as defining “decorative chromium electroplating facility,” while it in fact defines “decorative chromium electroplating.”

d. A table of contents, as it would appear in the published Wisconsin Administrative Code would be helpful at the beginning of ch. NR 463.

e. In s. NR 463.02 (8), it appears that ““Chromium electroplating or chromium anodizing tank”” should be replaced by ““Chromium electroplating tank” or “chromium anodizing tank”.”

f. In s. NR 463.02 (12), the phrase “for the purposes of this chapter” should be omitted.

g. The term “pound-force,” used in s. NR 463.03, should be defined. Also, the acronym “dscm,” used frequently throughout this chapter, should be defined. The parenthetical presentation of this acronym in s. NR 463.03 (10) does not constitute a definition.

h. The Note following s. NR 463.10 (1) (d) appears to be substantive, rather than explanatory. This provision should be placed in the text of the rule, rather than a note.

i. In s. NR 463.12 (7) (c) 9., the phrase “as defined in s. NR 400.02 (80e)” should be omitted.

j. In s. NR 463.12 (9) (c), the word “paragraphs” should be replaced by the word “subsections.”

4. Adequacy of References to Related Statutes, Rules and Forms

a. In keeping with the format of other provisions of the rule, the treatment clause of SECTION 9 should indicate that ch. NR 463 cites provisions of ch. NR 460, as created by Clearinghouse Rule 96-086.

b. The rule should make appropriate amendments to ch. NR 484, to reflect the numerous instances that ch. NR 463 refers to materials incorporated by cross-reference.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. Section NR 439.07 (4) requires that an owner or operator must contact the department at least five business days prior to a scheduled compliance emission test date if the test is not conducted due to unforeseeable circumstances. If the owner or operator does not foresee the circumstances that prevent the test until less than five business days prior to the time that the test is scheduled, it will be impossible to comply with this requirement. The rule should make some provision for this potential circumstance. Also, the use of the phrase “his or her control” probably is not accurate. An owner or operator may be a corporation of some other business entity. Although repetitive, it would be more accurate to use the phrase “owner’s or operator’s control.” The entire rule should be reviewed for this problem.

b. Section NR 463.02 (22) defines the term “new,” an adjective, as if it were a noun. Should the defined term be “new tank”? Alternatively, the definition should be modified to fit an adjective. Similarly, s. NR 463.02 (29) defines “tank operation” as a period of time. Should the defined term be “tank operation time” or “period of tank operation”?

c. In s. NR 463.02 (25), the phrase “commercial sale in commerce” is redundant.

d. In s. NR 463.03 (5) the first occurrence of the word “and” should be omitted.

e. In s. NR 463.09 (4) (e) 5., the word “be” should be inserted between the words “may” and “used.”